

REMARKS

Status of the Claims

Claims 1–4 are currently amended.

Claim 5–15 stand withdrawn.

Claims 1–15 are pending.

Priority

The Applicant acknowledges the requirement under 35 U.S.C. § 119(b) to submit a certified copy of the French Patent Application No. 0208212 filed July 1, 2002. This certified copy will be submitted by U.S. mail as a follow-on document, as the instant amendment is being submitted by the electronic filing system.

Specification

The Office Action has requested that Applicant update the status of the instant application to recite that it is a 371 national stage application of PCT/FR03/02039 filed July 1, 2003. In response, Applicant has amended the specification accordingly.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

In the Office Action claims 1–4 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In reply, Applicant has amended claims 1–4 to expressly recite the method that Applicant intends to encompass. With respect to claim 2, Applicants respectfully traverse the Examiner's statement that "...the bacterium or bacteria are chosen from Streptomyces genera, of which is not bacteria but are yeasts." To the contrary, Streptomyces is well known to be a genera of bacteria.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1–4 are rejected in the Office Action under 35 U.S.C. § 101 as improperly defining a process due to a lack of any steps involved in the process. In reply, claims 1–4 as currently amended, now explicitly include the active step of applying the mixture to a vine having a cryptogamic disease.

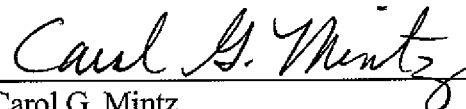
Claim Rejections Under 35 U.S.C. § 102

In the Office Action, claims 1-4 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 94/19950 (hereinafter WO '950). It is said that the instant claims are identical to the disclosure of WO '950. As amended, claim 1 provides a method for biologically controlling a cryptogamic vine disease that comprises applying to a vine having said cryptogamic disease a mixture containing at least one bacterium and at least one yeast, to treat said disease. The bacteria and yeasts are non-toxic to the vine. In contrast, there is no express disclosure in WO '950 of specifically treating cryptogamic vine diseases, and there is no express requirement of non-toxicity of the mixture to the treated vine. Accordingly, WO '950 does not disclose all limitations of claims 1-4.

Conclusion

Applicant respectfully requests reconsideration of the application, as currently amended, withdrawal of the objections and rejections, and allowance of all pending claims. It is believed that no fee is due beyond any fee that may have been provided in an accompanying paper. If any necessary fee has been inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C., Houston, Texas, Deposit Account No. 03-2769, and consider this a petition for any necessary extension of time.

Respectfully submitted,



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